

Summary of National Tribal Issues Raised by Region 10 Tribal Caucus

Trust Responsibility to Protect Subsistence and Treaty Reserved Resources

- EPA is charged with protecting human health and the environment throughout the United States, including the lands and resources of tribes, while supporting tribal self-government, fulfilling the federal trust responsibility, and strengthening the government-to-government relationship between the tribes and EPA.
- Region 10 tribes recommend making policy and permit decisions that protect the environment and public health based on science and traditional ecological knowledge, providing funding and technical support sufficient to enable tribal regulatory and environmental program management on tribal lands, and making consultation meaningful.

Improving Tribal Consultation

- EO 13175 requires regular and meaningful consultation and collaboration with tribal officials in the development of federal policies with tribal implications.
- R10 tribes recommend making tribal consultation early, respectful, meaningful, two-way government-to-government conversations towards consensus on decisions to be made.
- R10 has initiated a collaborative project to revise R10's Tribal Consultation Procedures that includes extensive tribal involvement.

Improving TAS Process

- EPA's Indian Policy states that the Agency will encourage and assist tribes in assuming regulatory and program management responsibilities for tribal lands.
- Nationally only 39 WQS Programs, 9 CAA Title V Programs, and 1 SDWA-PWS Program have been delegated to tribes.
- R10 Tribes recommend making TAS process more accessible and meaningful by providing technical assistance, reducing review time, providing continuous funding at appropriate levels, and replacing "treatment as state" with "treatment as sovereign."

Funding for Environmental Program Implementation

- EPA's Indian Policy states that the Agency will assist tribes in developing programs and capacity to assume regulatory and management responsibilities for tribal lands, and that within resource constraints, this assistance will be similar to that provided to states.
- R10 tribes recommend providing predictable and appropriate funding for tribal environmental program implementation- equitable to states- following the BIA 638 Self Governance model, redirecting unutilized state funds to tribes, increasing funding and flexibility for IGAP, providing funding and technical assistance for implementation of DITCAS, lifting the cap and increasing tribal set-aside under CWA-SRF and SDWA-SRF, and creating a new CAA tribal set-aside.

Statutory, Regulatory, and Procedural Barriers

- EPA's Indian Policy states that implementation will require changes in applicable statutory authorities and regulations, and that the Agency will take appropriate steps to remove existing legal and procedural impediments.
- Examples of statutory barriers that remain include IGAP prohibiting environmental program implementation except for solid waste activities, CWA 106 requiring demonstration of eligibility for TAS, RCRA Subtitle D defining tribes as municipalities preventing delegation of solid and hazardous waste programs, CWA 319 caps on tribal set-asides and limited amounts of competitive funding, no CAA tribal set-asides, and most program implementation funds requiring demonstration of territorial jurisdiction and regular competition, and/or specifically excluding Alaska tribes from eligibility.

Contamination of Subsistence Foods and Risk Assessment

- Many tribes can no longer harvest traditional and subsistence foods due to high levels of toxic contamination, and many more foods are at risk.
- R10 tribes recommend increasing funding and technical support for tribal media program monitoring, tissue sampling, risk assessments, and children's health; closing regulatory loopholes, increasing protective requirements, and increasing monitoring and enforcement on industrial and small sources of air and water pollution; and developing national guidance on fish consumption rates and state water quality standards based on the Oregon model.

Safe Drinking Water and Basic Sanitation

- Many tribes still lack access to safe drinking water and basic sanitation systems.
- EPA's 2006-2011 Strategic Plan aims to reduce by 50% the numbers of homes on tribal lands lacking access to safe drinking water and basic sanitation by 2015.
- EPA directs some CWA and SDWA SRF tribal set-asides (as well as some ARRA funds) to IHS through an inter-agency agreement for tribal drinking water and sanitation system infrastructure.
- R10 Tribes recommend lifting the cap on CWA-SRF and SDWA-SRF tribal set-asides and increasing funding and technical support for tribal science and water programs.

Air Quality and Climate Change

- Tribes, especially in Alaska, face disproportionate impacts from air pollution and climate change.
- R10 tribes recommend creating CAA tribal set-asides, increasing funding and technical support for tribal air quality monitoring and enforcement, inter-agency efforts to address indoor air quality issues, and expanding research on international transport and deposition.
- R10 tribes recommend: rules to reduce emissions quickly and significantly; increasing funding and technical support for tribal science, assessment, mitigation, adaptation, and clean energy projects; including tribes on national inter-agency climate change panels; and developing guidance and funding for relocation of Alaska Native Villages.

Cleanup of Landfills and Open Dumps

- EPA and IHS have documented over 3000 open dumps on tribal lands nationally. There are more than 578 open dumps, with 69 ranked as high threat, on tribal lands in R10.
- National RCRA Tribal Solid Waste Program funding cannot begin to meet this challenge, and RCRA funding cannot be used to clean-up solid waste open dumps.
- Region 10 tribes recommend supporting OSWER's request for \$10 million in new funds for clean-up of high-risk dumps on tribal lands, new RCRA funding authorities to clean-up open dumps, and increasing funding and technical support for landfill operation, management, and enforcement.

Resource Extraction and Tribes

- Tribes, especially in Alaska, face disproportionate environmental and health impacts from large-scale resource exploration and extraction activities including mining, oil and gas, pipelines, and seafood processing.
- R10 tribes recommend: increasing utilization of science, traditional ecological knowledge, and health impact assessments in permitting; increasing monitoring and enforcement of project implementation and remediation; and exercising authorities to review state-issued permits and water quality standards and to object as appropriate to protect tribal health.

Application of TEK and More Holistic, Watershed, and Ecosystem Based Approaches

- Many tribes have thousands of years of knowledge, skill, and experience in managing their natural resources and ecosystems.
- R10 tribes advise that both subsistence resources and pollution know no tribal, state, or national boundaries; and recommend more holistic inter-agency multi-media approaches to environmental protection and restoration. R10 tribes recommend supporting inter-Agency partnerships to protect and restore healthy ecosystems and subsistence lifeways.